IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 14.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATH KUMAR

Habeas Corpus Petition No.109 of 2006

Dhandapani … Petitioner

Vs.

1. The Additional Secretary
to Government of India,
Ministry of Consumer Affairs
and Public Distribution,
Room No.270, Krishi Bhavan,
New Delhi 110 001.

2. The Secretary to Government,
Co-operative, Food and
Consumer Protection Dept.,
Fort St. George, Chennai 600 009.

3. The District Magistrate
and District Collector,
O/o. the Collectorate,
Dharmapuri District, Dharmapuri. … Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records relating to the third respondent, pertaining to the detention order made in S.C.No.1/2006(CS) dated 07.01.2006 in detaining the detenu under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (No.7/1980) as "Blackmarketer", quash the same, direct the respondents to produce the said detenu namely Senthil @ Senthil Rajan, son of Panneerselvam, aged 39 years, detained at Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Mr. D.Veerasekaran
For R-2 & R-3 : Mr. Abudukumar Rajarathinam,
Government Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the impugned order of detention dated 07.01.2006, detaining his brother by name Senthil @ Senthil Rajan as 'Blackmarketer' as contemplated under the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (No.7 of 1980).

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that within a period of one week from the date of detention, ie., on 14.01.2006, wife of the detenu made a representation to the Detaining Authority, the third respondent herein, however, the same has not been considered/disposed of one way or other.

4. It is not in dispute that the said representation has not been considered and that no order has been passed thereon till this date. In the light of the above admitted factual position, we hold that failure to consider the first representation dated 14.01.2006 vitiates the ultimate order passed by the Detaining Authority.

5. Consequently, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed and the detenu is directed to be set at liberty forthwith from custody unless he is required in connection with any other case or cause.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Additional Secretary to Government of India,
   Ministry of Consumer Affairs and Public Distribution,
   Room No.270, Krishi Bhavan, New Delhi 110 001.

2. The Secretary to Government, Co-operative, Food and
   Consumer Protection Dept., Fort St. George, Chennai-9.

3. The District Magistrate and District Collector,
   O/o. the Collectorate, Dharmapuri District, Dharmapuri.

4. The Public Prosecutor, High Court, Madras.

5. The Superintendent, Central Prison, Salem.

+ one cc to M/s. d. Veerasekaran, Advocate sr no. 12306

NM(23.03.2006)

HCP No.109 of 2006.

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